

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED MOTOR VEHICLES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Overgrown and dirty lots.
- 13-105. Weeds and brush.
- 13-106. Height of vegetation in residential areas.
- 13-107. Dead animals.
- 13-108. Health and sanitation nuisances.
- 13-109. Sewage systems.
- 13-110. Materials for filling real property.
- 13-111. Outside storage.
- 13-112. Use of the mail center.
- 13-113. Violations and penalty.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the mayor, city board of commissioners, or city manager shall appoint or designate to administer and enforce health and sanitation regulations within the city. (Ord. #215-9, June 2015)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #215-9, June 2015)

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<sup>1</sup>Municipal code references

Animal control: title 10.

facilities in beer places: § 8-110(9).

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pond or pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (Ord. #215-9, June 2015)

**13-104. Overgrown and dirty lots.** (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. If no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Baneberry Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the

transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Jefferson County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of

the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

**13-105. Weeds and grass.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder to cut such vegetation when it has reached a height of over one foot (1').

**13-106. Height of vegetation in residential areas.** (1) Grass, weeds, and vegetation in residential parts of the city shall not be taller than twelve inches (12"). Owner of such property is responsible for compliance of this directive.

(2) Property owners are also responsible for curbs and culverts making certain they are clear of weeds and clippings.

(3) It is illegal to place leaves, clippings and debris on property other than your own. (Ord. #219-9, Jan. 2020)

**13-107. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (Ord. #215-9, June 2015)

**13-108. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (Ord. #215-9, June 2015)

**13-109. Sewage systems.** It shall be unlawful for any property owner to allow the escape of sewage waste (solid or liquid) from treatment systems, tanks, lines, etc. on their property. Also any alternative sewage systems must

be maintained according to the manufacturer's specifications and state regulations. The health officer or city manager shall notify the appropriate State of Tennessee official whenever a violation is noted. (Ord. #215-9, June 2015)

**13-110. Materials for filling real property.** It shall be unlawful for any person to fill or dump or to permit anyone to fill or dump any material on their property other than dirt, rock or stone without obtaining approval, in writing, from the city health officer. (Ord. #215-9, June 2015)

**13-111. Outside storage.** Unless otherwise specifically allowed by law, it shall be unlawful to store items of personal property out-of-doors, or outside a building or structure that is not wholly enclosed with the following exceptions:

- (1) Firewood that is stacked and useable.
- (2) Construction material, if the material is stored in a manner to protect its utility and prevent its deterioration and the material is reasonably expected to be used for construction on the premises.
- (3) All other items of personal property which are of a type, condition or quantity consistent with normal and intended use outdoors. By way of illustration, these items of personal property include barbeque grills, play pools, play/swing sets, spas, hoses/hose reels, trampolines, landscaping and architectural features, lawn furniture, solid waste disposal containers, boats, boats on boat trailers, campers, utility trailers, and recreational vehicles. (Ord. #215-9, June 2015)

**13-112. Use of the mail center.** (1) It shall be unlawful for anyone to use the mail center or the mail center access road except for mail delivery or mail retrieval or as otherwise directed by the proper authorities.

(2) It shall be unlawful to use the mail center access road as a "short cut" or an alternate route to the dedicated city streets or to otherwise violate the posted signs such as driving the "wrong way" in the one-way sections.

(3) It shall be unlawful to use the mail center access road for recreational purposes, such as skate boarding, bicycle riding, horseback riding or other uses that could be determined to be recreational.

(4) It shall be unlawful for anyone to mutilate, deface or in any way, maltreat any and all properties located within the described boundaries herein, including the mail center, mail center access road, signs and the entire landscape of the property.

(5) Any law enforcement officer, the mayor, city commissioners and the city codes enforcement officer may issue citations for violation of this section.

(6) Any violation of this section shall be subjected to a fine of fifty dollars (\$50.00) if adjudged guilty of the violation. (Ord. #220-04, Nov. 2020)

**13-113. Violations and penalty.** Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in

accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (Ord. #215-9, June 2015)

## CHAPTER 2

### JUNKYARDS

#### SECTION

#### 13-201. Junkyards.

**13-201. Junkyards.** All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (Ord. #215-9, June 2015)

## CHAPTER 3

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-301. Definitions.
- 13-302. Declared public nuisance.
- 13-303. Order to remove.
- 13-304. Removal by city.
- 13-305. Exceptions.
- 13-306. Violations and penalty.

**13-301. Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein:

(1) "Junked motor vehicles." Any motor vehicle the condition of which is one (1) or more of the following:

- (a) Wrecked.
- (b) Dismantled.
- (c) Inoperative.
- (d) Abandoned.
- (e) Discarded.

(2) "Motor vehicle." Any vehicle which is self-propelled and any device in, upon, or by which any person or property is or may be transported or drawn from one (1) location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. (Ord. #215-9, June 2015)

**13-302. Declared public nuisance.** The location or presence of any junked motor vehicle on any lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance and it shall be unlawful for any person to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle on the property of another, or to suffer, permit, or allow the same to be placed, located, maintained, or to exist upon his own real property.

This section shall not apply to:

- (1) Any junked motor vehicle in an enclosed building.
- (2) Any junked motor vehicle in an appropriate storage place of depository maintained in an officially designated place and manner by the city. (Ord. #215-9, June 2015)

**13-303. Order to remove.** Whenever any junked motor vehicle is found in the city in violation of this section, the recorder shall cause the owner or occupant of the premises on which such vehicle is located to be served with an



order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail, neglect, or refuse to obey such order within ten (10) days after service of the same. (Ord. #215-9, June 2015)

**13-304. Removal by city.** If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or if he has permission of the owner of the premises, the recorder shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle and disposing of same in accordance with *Tennessee Code Annotated*, title 55, chapter 16. Such impoundment and disposition shall not relieve any person from liability for penalty upon conviction for violating other provisions of this chapter, but is in addition to any other penalty. (Ord. #215-9, June 2015)

**13-305. Exceptions.** The provisions of this section shall not apply to:

- (1) Vehicles in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways.
- (2) Vehicles stored by a member of the Armed Forces of the United States who is on active duty assignment, and stored with the permission of the property owner. (Ord. #215-9, June 2015)

**13-306. Violations and penalty.** Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty clause for this code. Each day in which such violation shall continue shall be deemed a separate offense. (Ord. #215-9, June 2015)